

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF DOUGLAS

THIS AGREEMENT is entered into 5th September, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF DOUGLAS acting by and through its MAYOR and CITY COUNCIL (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has approved the exchange of \$1,350,000.00 Highway User Revenue Funds (HURF) in Fiscal Year 2002 to the City for the construction of improvements to Chino Road, and such funds will be repaid to the State by withholding from the Southeastern Arizona Governments Organization (SEAGO), federal funds and the obligation authority for federal funds in the amount of \$1,647,740.00 in Fiscal Year 2002.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

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NO. 25464  
Filed with the Secretary of State  
Date Filed: 09/05/02

Letty Bayless  
Secretary of State

By: William J. Starneswald

## **II. SCOPE OF WORK**

### **1. The City will:**

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project construction cost, at the start of construction.

d. Invoice the State for thirty percent of the project cost, at the thirty percent and sixty percent project completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide ADOT with a letter documenting the notice of the approval and acceptance of the project.

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the City, SEAGO, and the State (ADOT) representatives have completed final project review.

### **2. The State will:**

a. Within 30 days after receipt and approval of an invoice, advance the City HURF funds in accordance with paragraph II, 1c, d, f.

b. Withhold from SEAGO, federal funds and the obligation authority of federal funds \$1,647,740.00 in Fiscal Year 2002 for construction.

## **III. MISCELLANEOUS PROVISIONS**

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.
4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.
5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.
6. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.
7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

For Contract:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue – Mail Drop 616E  
Phoenix, AZ 85007  
FAX (602-712-7424)

City of Douglas  
City Manager  
425 10<sup>th</sup> Street  
Douglas, AZ 85607

For Invoice/Reimbursement:

Arizona Department of Transportation  
Contract Accounting  
206 S. 17th Avenue – Mail Drop 204B  
Phoenix, AZ 85007

City of Douglas  
Finance Department  
425 10<sup>th</sup> Street  
Douglas, AZ 85607

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


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IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF DOUGLAS**


**STATE OF ARIZONA**

Department of Transportation

By   
RAY BORANE  
Mayor

By   
MARY LYNN TISCHER, Div. Director  
Transportation Planning

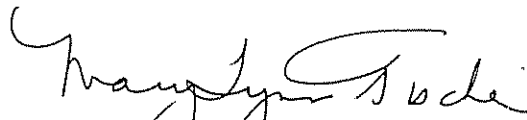
ATTEST

By   
LETICIA RODRIGUEZ  
City Clerk  
G:02-021-LGVT-Douglas-HURF  
18May2002

RESOLUTION

BE IT RESOLVED on this 15th day of May, 2002, that I, the undersigned VICTOR M. MENDEZ, Director of the ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Transportation Planning Division, to enter into an agreement with the CITY OF DOUGLAS, for the purpose of the exchange of \$1,350,000 00 in Highway User Revenue Funds (HURF) to the City for the construction of improvements to Chino Road, for the benefit and safety of the traveling public.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Director of Transportation Planning Division or higher, for approval and execution.

A handwritten signature in cursive script, appearing to read "Mary Lynn Tischler", written over a horizontal line.

MARY LYNN TISCHER, Division Director  
Transportation Planning Division  
for VICTOR M. MENDEZ, Director

Resolution No. 02-257

A RESOLUTION OF THE MAYOR AND COUNCIL  
OF THE CITY OF DOUGLAS, ARIZONA,  
AUTHORIZING THE EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF DOUGLAS AND THE  
ARIZONA DEPARTMENT OF  
TRANSPORTATION FOR FISCAL YEAR 2002 IN  
THE AMOUNT OF \$1,350,000.00 FOR THE  
CONSTRUCTION OF IMPROVEMENTS TO  
CHINO ROAD.

*WHEREAS*, the State Department of Transportation has approved the exchange of \$1,350,000.00 Highway User Revenue Funds (HURF) in Fiscal Year 2002 to the City for the construction of improvements to Chino Road, and such funds will be repaid to the State by withholding from the Southeastern Arizona Governments Organization (SEAGO), federal funds and the obligation authority for federal funds in the amount of \$1,647,740.00 in Fiscal Year 2002; and

*WHEREAS*, the Intergovernmental Agreement Project No. HRF-DGS-0-766 providing the terms and conditions of said agreement entered into by the parties is attached in Exhibit "A", and incorporated herein by reference; and

*WHEREAS*, it is in the best interests of the City of Douglas to accept this funding to provide needed improvements to Chino Road.

*BE IT RESOLVED*, by the City Council of the City of Douglas as follows:


**Section 1.** The terms of said Intergovernmental Agreement are in the best interest of the City of Douglas.

**Section 2.** The City Manager and City Clerk are hereby authorized to execute and deliver the Intergovernmental Agreement and any related documents necessary to consummate the transaction contemplated by the agreement for and on behalf of the City of Douglas.

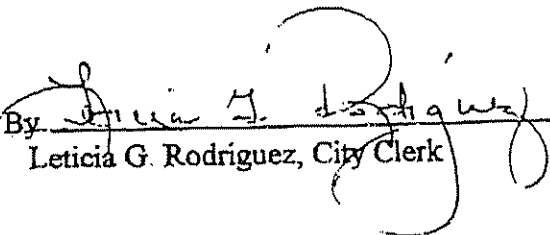
**Section 3.** The officers of the City Council and the City of Douglas are hereby authorized and directed to fulfill all obligations under the terms of the Intergovernmental Agreement.

**PASSED AND ADOPTED** by the Mayor and Council of the City of Douglas, Arizona, this 10th day of July, 2002.

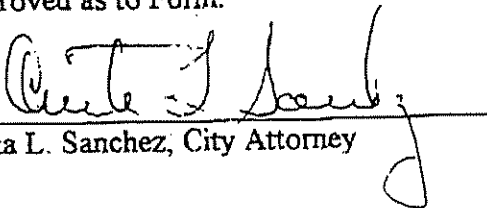
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By   
Ray Borane, Mayor

Attest:

By   
Leticia G. Rodriguez, City Clerk

Approved as to Form:

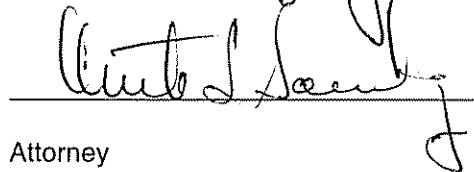
  
Anita L. Sanchez, City Attorney

JPA 02-021

APPROVAL OF THE CITY OF DOUGLAS ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF DOUGLAS and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 10<sup>th</sup> day of July, 2002.

  
Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL  
TRANSPORTATION SECTION

1275 WEST WASHINGTON STREET, PHOENIX, AZ. 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

TRN Main: (602) 542-1680  
Direct: (602) 542-8855  
Fax: (602) 542-3646

MAIN PHONE : (602) 542-1680  
FACSIMILE : (602) 542-3646

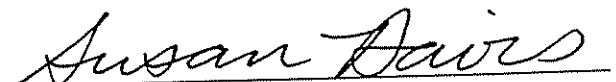
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-1519TRN, an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED August 26, 2002.

JANET NAPOLITANO  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/srs

Att.

754741